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EXAMINER

LANEAU, RONALD

ART UNIT PAPER NUMBER

3627

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/971,143

Applicant(s)

GATHMAN ET AL. 

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

1. The amendment filed on 6/10/2004 has been entered. Claims 19-20 are added and claims 1-20 are now pending.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-10, 13-15, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Sehr (US 2001/0018660 A1).

As per claim 1, Sehr discloses a method of doing business, comprising: Providing a public-facility electronic ticket control system for communicating with virtual ticket devices through public-facility access points, the virtual ticket devices for storing virtual tickets (Figs. 1-4; Abstract; [0002], [0004]-[0006], [0024]-[0036], [0039], [0051]-[0052] - the public-facility electronic ticket control system encompasses the admission center, service providers, event organizer and visitors which communicate with the virtual ticket devices, the e-tickets stored on a handheld card device that includes at least a "smart card" and can further include PC card forms, handheld terminals or any pocket-sized computer configurations, through the communication data links; the public-facility access points are the access control modules);

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Detecting when a virtual ticket device has entered the public-facility area ([0051]-[0053] - the cards containing the e-tickets are inserted into the access modules to enter the public facility area and are necessary for admission or readmission); and

Downloading into the virtual ticket device an application for use in connection with the electronic ticket control system ([0113] – download data and information to be stored in the card, and to accumulate appropriate bonus points to be used for future services and consumptions); and

Transmitting a message from the electronic ticket control system to the virtual ticket device, the message containing information relating to goods available for sale at the public facility which relate to an event at the public facility (Figs.1-4; Abstract; [0002], [0010-0012], [0017], [0019], [0024], [0026], [0028]-[0036], [0040], [0043], [0052], [0056], [0059], [0063], [0067]-[0068], [0075], [0087]-[0088], [0096], [0108] - loads a stamp into the e-ticket device for being the one thousandth visitor for free merchandise, the Card Service Center loads specific entitlements into an e-ticket device, the Vendor/Merchant communicates frequent shopper points to and from the e-ticket device, i.e. transmits a message containing information relating to goods available for sale at the public facility which relate to an event at that facility, the system has the means to couple with the e-ticket device and communicate and display mobile vendors items for sale, as well as allowing for purchase of the items, the card service center and system can store on the e-ticket device a menu of available service benefits, including new seat assignments, the stored forms on the e-ticket device include loyalty programs that let cardholders earn frequent shopper points for purchases initiated at a particular merchant, the admission center or event organizer can store in the e-ticket device a number of attendance points or information relating to

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promotional activities, including service codes that qualify the card holder for example for ticket related services, i.e. first right and other priority privileges to purchase additional tickets - including the same seat location, automated selection of tickets based upon preferred seat assignments and budgetary price ranges stored in the card, VIP-pass to meet the event performers, parking permits (including valet parking), telephone cards (including special calling fees), purchase of discount merchandise).

As per claims 2-7, Sehr teaches receiving in the electronic ticket control system a responsive message relating to goods available for sale at the public facility (Figs. 1-4; Abstract; [0002], [0004]-[0006], [0008]-[0010], [0012], [0016]-[0017], [0019], [0024]-[0026], [0028]-[0036], [0040]-[0043], [0049], [0052], [0056]-[0059], [0062]-[0064], [0077], [0081], [0091]-[0092], [0108]-[0114], [0130], [0137] - the messages received by the system are in the form of the audit trail and the debiting of the e-ticket device when transactions occur every communication that occurs is part of the audit trail and thus, a responsive message, i.e. a purchase transaction, is received in the electronic ticket control system, even the mobile vendors transactions, as they sell and deliver their merchandise during the event within the stadium; the locator program is the seat assignment that is recorded, where the mobile vendor delivers the goods in the specific row, teaches retrofitting the e-ticket device to facilitate communications with a GPS provider).

As per claims 8 and 9, Sehr teaches that the content of the message containing information relating to the goods available for sale is determined at least in part by information in the database relating to at least one previously concluded sale (see the citations for claim 1 - messages regarding frequent shopper points for purchased initiated at a particular merchant).

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As per claim 10, Sehr teaches the content of the message containing information relating to the goods available for sale is determined at least in part by the admission privileges associated with an electronic ticket stored on the virtual ticket device see citations for claim 1 above and explanation for purchase of an alcoholic beverage at a stationary vendor [0128]-[0129] - mobile vendor making sale of alcohol would utilize the admission privileges, i.e. appropriate use rights - including age, and the message is the list of items for sale by the vendor that is able to be ordered).

Systems claims 13 and 14 are rejected for the same reasons as claim 1. The distributed sales database is at least items 310 and 20. As this is a system or remote distributed databases interacting/communicating through a network, and contains a processor inherently in communication with the distributed sales database containing goods related information for sending to a virtual ticket device through the at least one access point and would inherently need software to run the program.

System claim 15 is rejected for the same reasons as claim 6.

As per claims 19-20, Sehr teaches a step of identifying a group of virtual tickets with a shared characteristic, wherein the message containing information relating to goods available for sale is transmitted to the identified group of virtual tickets and is determined at least by information relating to the shared characteristic ([0090] – a group of sports fans (shared characteristic) having all of their tickets stored in a visitor card can use the same card for admission ).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-12, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sehr (US 2001/0018660 A1).

As per claims 11 and 16, Sehr discloses as set forth above. Sehr discloses that the e-ticket device, i.e. "smart cards", as well as PC card formats, handheld terminals or any pocket-sized computer configurations can display data relating to events, cardholders, and system entities, as well as to services rendered via the card [0035]. Sehr additionally teaches that the cardholder can access from home, the database containing seat assignments via the visitor card and/or a computer terminal, select and pay for the seat locations, and load the selections made into the visitor card as the corresponding ticket [0047]. Sehr further teaches that a new card can be compiled and that the compiled information/options can be loaded into the visitor card (0048). As Sehr teaches that the card can be a handheld terminal or any pocket-sized computer configuration, the Examiner takes Official Notice that several of these handheld devices include Palm, Handspring, Sony Clie, Toshiba Pocket PC, Hewlett Packard Ipaq, and others, which often require specialized software and user interfaces particularly when utilizing biometrics and cryptography. However, Sehr does not specifically disclose that the electronic ticket control system includes a downloadable user-interface program. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have had the electronic ticket

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control system of Sehr include a downloadable user-interface program in order to ensure that the handheld terminals or any pocket-sized computer configurations would function with the system and method.

As per claims 12 and 17, Sehr discloses as set forth above. Sehr further discloses that The e-ticket system can display information inputted into it and can communicate via a read/write module, with the other system components including equipment that captured e-ticket system data relating to text, graphics, audio or video information, i.e. the card contains and displays such information [0035]-[0036]. The e-ticket system can display graphics, i.e. a map of the seating arrangements [0046]. The examiner takes Official Notice that providing an image represent goods for sale is old and well-known in both the commercial and the e-commerce art as a convenient way to entice buyers to purchase products. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the step of using an image of the goods for sale on the e-ticket system in Sehr because the skilled artisan would have recognized that this business practice enhances the likelihood of making a sale of the product, is more persuasive than mere text, and is clearly applicable to the sale of any type of product. These advantages are well known to those skilled in the art.

As per claim 18, Sehr discloses as set forth above, i.e. everything except the wherein clause. Sehr further teaches that the e-ticketing system stores information relating to promotional activities from the event organizer [0096], Downloading into the virtual ticket device an application for use in connection with the electronic ticket control system (page 15, [0113] – download data and information to be stored in the card, and to accumulate appropriate bonus points to be used for future services and consumptions). However, Sehr does not teach



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transmitting a message in response to an occurrence at the event and the goods offered for sale are specifically related to the occurrence. Advertising and promotion of items for sale is a key factor in the success of any business and targeting your advertising is a well known in the business community. The examiner takes Official Notice that multiple feature movies or movies that have an intermission utilized advertisements to sell concession items, i.e. beverages and snacks, to the movie watchers. The examiner also takes Official Notice that during concerts, performers will sing a song from their new album and an advertisement or a vocal message telling the patrons that the new album is available for sale at the concession is made. Both of these examples are transmitting a message in response to an occurrence at the event and the goods offered for sale are specifically related to the occurrence. The song sang is specifically related to the album for sale. The snacks/beverages are specifically related to the intermission break and what a person can do with that time. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have added the well-known step of transmitting a message in response to an occurrence at the event and the goods offered for sale are specifically related to the occurrence in the e-ticket system of Sehr for the purpose of increasing sales and revenues at the event.

### ***Response to Arguments***

6. Applicant's arguments filed on 6/10/2004 have been fully considered but they are not persuasive.

Applicant argues that Sehr does not anticipate "downloading an application program into a virtual ticket device for use in connection with an electronic ticket control system. Contrary to

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applicant's arguments, Sehr does teach downloading data and information to be stored in the card, and to accumulate appropriate bonus points to be used for future services and consumptions as claimed (page 15, [0113]). Furthermore applicant's arguments that the examiner's conclusion of obviousness is based upon applicant's disclosure, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper. See *in re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). As far as the obviousness of these claims in the absence of any teaching or suggestion in the references, it is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. *In re Sheckler* 168 USPQ 716 (CCPA 1971); *In re McLaughlin* 170 USPQ 209 (CCPA 1971); *In re Young* 159 USPQ 725 (CCPA 1968). Applicant's arguments having been found unpersuasive, the rejection has not been withdrawn.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RL

Ronald Laneau  
Examiner  
Art Unit 3627

*[Handwritten Signature]*  
Primary Examiner  
9/16/04

rl